

From: J. Davis
To: Microsoft ATR,Gary Lody,pulsetaker
Date: 11/18/01 1:09am
Subject: Microsoft Settlement

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D.O.J. - Show us some Justice.

In the mid-nineties, Microsoft agreed to stop its predatory and monopolistic practices. They obviously didn't. Their attitude has always been to push the limit. It's standard practice for them call in the

lawyers and ask just how far they can go.

All they're getting is a slap on the wrist, again. They know that in three or four years, they can drive on

with doing what they do best. Putting a strangle-hold on the world by stifling competition, and overly

restrictive licenses that won't even allow me to transfer my old copy of Windows 95 to my mother when I

upgrade my computer.

We, the people who have been paying through the nose, would like to actually see some justice done. Their

"screw the little guy" attitude shouldn't go unanswered. If you aren't going to break the company up, which

is the only just thing to do, at least make them to release their source code. As a matter of fact, really

foster some competition. Make them release their source code to the linux developers.

Then they'll really

have to earn their market position.

If you don't, they'll just do everything they can to circumvent the Law and fair business practices again and

again. They were doing it elsewhere without any fear of reprisal, while this trial was underway. Included

are a few examples of Microsoft's conduct. Pay attention to the dates. They go back a long way. Only a

pittance few are listed here.

Quoted from <http://www.csse.monash.edu.au/~lloyd/tilde/InterNet/Law/>

February 2001: Sun accepted \$20M from Microsoft in an out of court settlement for MS breaking the Java license conditions. Microsoft probably looks upon this as small change for delaying tactics to muddy the Java waters while getting a competitor up.

24 July 2001, Linux offer to charity in Windows row, The Age IT1 p2, Nathan Cochrane.

"Sydney free software distributor and trainer Everything Linux has pledged to support a Geelong children's

charity whose work Microsoft halted last week for distributing PCs with obsolete copies of its software."

[...]

a.. [LA: It shows the potential risk of getting locked in to a single source monopoly supplier. Many charities

are donated old PCs. These often are not big enough or fast enough to run current MS Windows. MS have

apparently stopped this charity from loading copies of e.g. Win3.1. Fortunately the Linux operating system

will run fine, even on an old 486, and it's free. And Openoffice (~Staroffice) is a free office software suite

- ~word, ~excel, etc. - see [Sun] in Refs.]

4 August 2000: The European Commission (EC) began investigating claims that Microsoft selectively withheld

information from some software companies, seen as being competitors, with the aim of extending its near

monopoly in the desk-top operating system market into other markets. This would violate European Union

antitrust laws.

February 2000: The European Commission (EC) will investigate complaints that Microsoft that indulges in anti-

competitive practices, in particular making it difficult for competitors to write software that can interact

with the new Windows 2000 p.c. operating system.

20 November 1998: The Microsoft Anti-Trust case has been running since 19 Oct 1998 and some heavyweights have now testified about pressure being applied to them by MS to do, or not do, 'uvw', or else MS might do 'xyz'. e.g. Intel w.r.t. some Intel multi-media software that MS allegedly disliked, Apple w.r.t. its QuickTime movie product, its default web browser and MS Office software, and of course Netscape... Bill Gates has also testified, denying the significance of internal MS email messages containing threatening language against other companies.

17 November 1998: A US court found that Sun Microsystems Inc. would be likely to win its case, that Microsoft violated its Java contract and therefore granted an injunction that Microsoft must change any of its products (e.g. Windows98, Explorer,...) that it claims to be Java compatible, or that are derived from Java technology, so that they genuinely are compatible with Sun's Javatm test suite.

19 October 1998: Microsoft Anti-Trust case begins in court.

D. Lawsky. MS 'disabled' competitor's sound system. The Age, IT1, Tues 28 July 1998, p3. Realnetworks Inc. [make internet sound and music software] ... has accused Microsoft of releasing a program that disables its product. Chief executive Robert Glaser [of Realn'] [...] told the Senate Judiciary Committee [MS] was using its dominant position to extend its grasp of the software market. [...] Four other executives [inc' from Lotus, Acer] gave specifics on ways they said Microsoft used a monopoly in the Windows operating system to compete unfairly. [...]

March 1998: A USA court told Microsoft to remove the Java-compatible logos from Microsoft Internet Explorer and Microsoft Software Developers Kit while a court case brought by Sun Microsystems continues. Sun has sued Microsoft for breach of contract over its Java licence; see 7 October 1997 below. This may yet be a case of Sun winning a battle but losing the war?

January 1998: Apple turned in a profit after its recent losses, painful cuts and much debated \$150M investment by Microsoft (1997).

Conrad Walters Microsoft faces fine over Net dominance, The Australian Wed' 22 October 1997.

The US Justice Department yesterday asked the Federal Court to fine Microsoft \$US1 million a day over the software giant's attempt to dominate the Internet. [...]

[LA: Microsoft's web browser Explorer-4 grows ever more closely involved with the Windows-95 (soon Windows-98) operating system. Microsoft's argument is that they are just adding improvements and new functions to their O.S.. The counter view is that MS is attempting to stifle competition in the web browser market, specifically to knock-off Netscape which held 70% of it as of mid 1997. The European Commission is also investigating if Microsoft is using its monopoly of Windows-95, and hence monopoly (to all intents and

purposes) of P.C.

operating systems, to force computer suppliers to install Explorer as the default browser to the detriment of Netscape.

Incidentally, it has been suggested that if the Windows O.S. specification was freely available there would be some real competition in P.C. operating systems because other software companies would be able to implement the spec', hence be able to run the applications programs which are the reason for Windows' popularity, and offer an alternative to MS.]

7 October 1997: Sun Sues Microsoft For Breach of Javatm Contract

Sun claims that Microsoft products Explorer 4.0, the recently (Oct 1997) released ms web-browser, and Software Development Kit for Java (SDKJ) failed the Java compatibility tests and so should not be labelled as being Java compatible, nor should the Java-compatible logo be applied to them.

The Sun press release alleges that Microsoft's actions include "...secretly adding Win32-specific and other APIs to the Java class libraries...".

Some conspiracy theorists believe that Microsoft would like to kill Java off, others that it would like to hijack it.

Ralph Nader's Essential Information is organising an Appraising Microsoft conference (13-14/11/97) to discuss whether or not Microsoft engages in unethical business practices and whether its dominance of the p.c. software market is harmful.

Quoted from Fox News:

"Speaking on CNNfn's Digital Jam, O'Reilly & Associates president Tim O'Reilly said he was questioned earlier this week by Justice officials, and that he told them that Microsoft is artificially trying to keep some competitors' software from functioning properly on its desktop Windows NT environment.

[...]

"O'Reilly said he's concerned by the fact that Microsoft -- which by its own admission is somewhat of a late-comer to the Internet software market -- is trying to take control of the global network. 'They're doing all they can to take control (of the Internet). In the process, I think they're damaging it pretty seriously.' ... Microsoft started creating a showdown when it began bundling its Web server with Windows NT, it's high-end operating system. Microsoft is reportedly telling companies they can't use competitors' software on the NT workstation platform and have sought to limit the use of standard Internet protocols with their software. ...

"'They're saying 'you have to use our platform the way we want you to.' The vision they have is contrary to the way people want to use it. They're saying we'll tell you how to use the Internet and saying the way we want you to use it is the way that benefits our revenue the most.'"

CNNfn, 8.22.96

LA Times:

"In the most dramatic allegation yet that Microsoft Corp. uses bullying tactics to protect its turf, Apple Computer Inc. has charged that the software giant threatened to withhold a key piece of software unless Apple agreed to drop two lawsuits and a competing product.

"The allegations are contained in a Feb. 13 letter from Apple to U.S. District Judge Stanley Sporkin. In a stunning decision last week, Sporkin rejected as too narrow a consent decree that settled antitrust charges by the Justice Department against Microsoft.

[...]

"Microsoft ... denied the allegation, and Chairman Bill Gates said he was disappointed by Apple's treatment of Microsoft.

[...]

"According to Apple... the computer maker a year ago attempted to obtain a copy of Windows 95, a yet-to-be released version of Microsoft's best-selling operating system software. ... Typically, Microsoft gives an early version of its software to independent software developers. Since December, 1993, about 40,000 independent software developers have received the early, so-called beta versions of Windows 95.

"Apple claims that Microsoft withheld Windows 95 because of two copyright infringement cases. In 1988, Apple filed suit against Microsoft, contending that Windows copied the Macintosh operating system. ... In December, Apple filed a lawsuit against San Francisco Canyon Co., charging that the start-up company gave Apple's copyrighted video software to Intel Corp. and Microsoft. Later, Apple sued Microsoft.

"... Apple Chief Executive Michael Spindler and Microsoft's Gates met to settle their disputes Apple contends that Gates issued a veiled threat against Apple, saying that withholding Windows 95 was 'cause and effect' for Apple's decision to file a second lawsuit against Microsoft.

"At the same meeting, Gates asked Apple to drop Open Doc, a software program that competes with a Microsoft product called Ole.

"Apple said it informed Assistant U.S. Atty. Gen. Anne K. Bingaman of its problems with Microsoft. After a phone call from Bingaman, confirmed on Thursday by the Justice Department, Apple received the early version of Windows 95.

"Although unorthodox, Bingaman's decision to intervene falls within her rights, legal experts said. 'I wouldn't call it mediation,' said Stanford University law professor William Baxter. 'I would call it law enforcement.'

[...]

"Gates ... sent a letter to Spindler, saying that he was 'disappointed' by Apple's actions. 'Microsoft develops more software for Apple than any other company,' he stated. Reflecting the tense relations between the two, Gates listed more than two pages of grievances."

Los Angeles Times, 2.24.1995, p. D-1

"Critics of the Redmond, Wash.-based company, the world's largest software publisher, have repeatedly claimed that it has used its dominance and relationship with IBM to crush tiny competitors and outmaneuver larger rivals.

"Particularly upsetting to many smaller software publishers is Microsoft's unique strategy of providing both system software, which controls the computer's basic operations, as well as application programs, such as word-processing and spreadsheet packages.

"Critics argue that because Microsoft controls the system software, it has an unfair advantage in developing application programs that must operate with the system software."

Los Angeles Times, 3.13.91, p. D-2.

Quoted from ZDNet:

Caldera vs. Microsoft: It's Not Over Yet

By Mary Jo Foley
Smart Partner
February 4, 2000

Caldera and Microsoft may have ended up settling their four-year-old antitrust suit before it went to trial, but the fireworks aren't over.

The latest explosion: Former Microsoft Germany employee Stefanie Reichel admitted in her deposition that she destroyed files and other information that potentially could have been used as evidence against Microsoft in the Caldera case. Reichel also admitted in the newly public deposition excerpts that her direct supervisor discarded hard drives of computers in Microsoft's German office.

Reichel said in her testimony she had destroyed e-mail messages that "could be problematic in an investigation," at the request of Microsoft management. Reichel also said she may have destroyed paper copies of documents.

At the end of January--as a result of a lawsuit brought by three media firms, The Salt Lake Tribune, The San Jose Mercury News and Bloomberg News--a number of previously sealed documents in the Microsoft-Caldera case were unsealed. Among the two boxes of documents were tens of pages of excerpts from